

THE NEWS OF NORFOLK ON PAGES TWO, THREE AND FIVE

COURT DECISIONS.

Notes of Cases Recently Decided,
Which are of Interest to
Our People.

DIGESTED BY W. B. MARTIN.
(Exclusively for Virginian-Pilot.)

BAKER V. SWINEFORD.

Supreme Court of Appeals of Virginia,
June 15, 1899.

CODE, SECTION 3600, AUTHORIZING COURTS TO ISSUE EXECUTION ON JUDGMENTS BEFORE THE END OF THE TERM, DOES NOT DEPRIVE THE COURTS OF THE POWER DURING THE TERM TO CORRECT, AMEND OR SET ASIDE SUCH JUDGMENTS.

Baker instituted an action of detinue to recover certain notes, which was so proceeded in that a judgment was rendered for the plaintiff for the property demanded, or its alternate value, which was ascertained to be \$1,650, with interest. Fifteen days having elapsed since the beginning of the term at which this judgment was rendered, the court entered an order by virtue of section 3600 of the Code, permitting executions to issue on judgments of that term after the lapse of 10 days from their date. Mrs. Baker, the plaintiff in error, issued an execution for the alternate value as set out in the judgment obtained by her, whereupon Swineford gave notice of a motion to vacate said judgment. This motion was resisted, but the court entered an order setting aside the judgment and granting the defendant a new trial, to all of which the plaintiff excepted. At a subsequent trial there was a verdict and judgment for the defendant, and plaintiff appealed.

The court says:
Did the court have the power to set aside a judgment upon which it had directed execution to issue by virtue of section 3600 of the Code? That section is in the following words:

"Any court, after the fifteenth day of its term, may make such order allowing executions to issue on judgments and decrees after ten days from their date, although the term at which they are rendered be not ended. For special cause, it may, in any particular case, except the same from such order, or allow an execution thereon on an earlier period."

Upon the part of the plaintiff in error, it is contended that, inasmuch as at common law no execution could issue except upon a final judgment, that a statute authorizing the issue of such a judgment necessarily operates to impair the quality of finality of it, so that if, upon the expiration of the fifteenth day of its term, a court exercises the power conferred upon it by section 3600, above cited, all judgments upon which an execution is authorized to issue become, to all intents and purposes, final and pass beyond the jurisdiction and power of the court.

At common law no matter how long a term might last a judgment did not become final until it ended, and the court had no power to direct an execution upon it. The inconvenience and injustice sometimes occasioned by this rule induced the legislature to provide a remedy. It enlarged the power of the court and imported to it an authority which at common law no court possessed. A statute, the manifest purpose of which was to enlarge the power of the court, will not be construed to limit that power unless such a result be unavoidable. There seems no reason why in so modifying the common law as to permit an execution to issue upon a judgment and at the same time preserving to the court jurisdiction to correct any error in the judgment during the continuance of the term at which it was rendered. The common law is in force with us in so far as it has not been changed by statute. We have then in this case a principle which is firmly imbedded in our system of jurisprudence, which greatly promotes justice, if indeed it be not essential to its administration. All courts of whatever degree are prone to err, and it is expedient and wise to afford the ampest opportunity to correct any error or injustice into which they have fallen. Therefore, the law in its wisdom has reserved to the courts full power over their records until the term is ended.

As was suggested in argument, if the contention of plaintiff in error be true, a cautious and conscientious judge would be slow to direct an execution to issue, and thus place it beyond his power to correct even the most glaring wrong and injustice which he, in the hurry and press of business, had inadvertently committed.

We are of opinion that section 3600 of the Code was designed by the Legislature and has the effect of conferring upon courts authority to direct executions to issue upon judgments under the conditions therein set forth, but that it was not intended and does not import to such judgments the quality of finality so as to deprive the court, during the term, of the power to correct, or if need be, annul, an erroneous judgment. Having the power to do more strongly call for, indeed, demand, its prompt exercise than that under consideration, for it would be a lastingly reproach upon our jurisprudence if a wrong so flagrant as this record discloses were beyond the reach of remedial justice. Affirmed.

LESLIE V. CITY OF GRAND RAPIDS
Supreme Court of Michigan.
April 18, 1899.

WHERE A STREET IS KEPT IN A REASONABLY SAFE CONDITION AND FIT FOR WAGONS AND CARRIAGES, A TOWN IS NOT LIABLE FOR INJURIES TO A BICYCLE RIDER CAUSED BY A DEFECT IN THE STREET.

This was an action to recover damages for personal injuries to plaintiff, who was thrown from his bicycle in consequence of the defective condition of the asphalt pavement on Canal street of Grand Rapids. There was a break in the asphalt pavement of about 2 1/2 feet by 2 feet in extent and 2 or 2 1/2 inches deep, the asphalt having been worn away. There was a judgment for defendant in the lower court and plaintiff appealed.

The court says:
These holes or broken places had existed for sixty days or more previous to the accident, so that the real controversy arises over the question whether the city was bound, under the statute, to keep its streets in a reasonably safe condition and fit for vehi-

cles of that character to pass over. It appears, without contradiction, that it was in reasonably safe condition for ordinary vehicles such as wagons and carriages. It has been held in this State, and in others, that a bicycle is a vehicle; but the question has never before been presented in this State whether, under this statute, the streets must be kept in a reasonably safe condition for this class of vehicles. Reasonable care in the construction and maintenance of highways for ordinary vehicles, such as wagons and carriages, is the measure of duty resting upon municipalities. In Sutton v. Town of North Hempstead, 80 Hun. 409, the court said:

"It is apparent that a bicycle rider upon an ordinary country road is exposed to greater dangers than a person riding in a wagon, and the great increase in the number of persons using these vehicles has created a demand for better and safer roads; but, under the present highway laws, a road in a condition which is reasonably safe for general and ordinary travel is all that the commissioners of highways are bound to maintain."

BRAMBLETON WARD.

The Brambleton W. C. T. U. will meet at the home of the president, No. 202 North Park avenue, at 4:50 o'clock this afternoon.

Mr. Ryland C. White is very sick at his residence, No. 224 East Claiborne avenue.

Mr. W. L. Buford, of Charleston, S. C., returned home yesterday after having visited with friends in Brambleton and vicinity.

Mr. LeRoy Wilkins is seriously ill with typhoid fever at his residence, No. 124 North Marshall avenue.

Mrs. B. D. Brickhouse and daughter, of Little Rock, Ark., are the guests of the former's sister, Mrs. J. T. Marshall, of 310 West Brambleton avenue.

The Sunday school of Trinity M. E. Church will give their annual picnic and excursion to the Soldiers' Home the 1st of August.

Rev. R. H. Bennett, pastor of McKendree M. E. Church, will leave tomorrow or Thursday for Ashland, Va., accompanied by his wife, to visit his mother, Mrs. W. W. Bennett.

Rev. C. H. Green, pastor of the Methodist Church at Reams, Va., is on a brief visit to the family of Captain J. E. Miller, of South Clay avenue.

Miss Alice Griggs, of Jersey City, is visiting her cousin, Mrs. J. B. Harris, No. 302 Sheldon avenue.

There is a general rejoicing by the membership and congregation of McKendree M. E. Church over wiping out the entire debt on the church building. They say the church is now in a position to do much for the advancement of the cause of Christ in that part of His moral vineyard.

ATLANTIC CITY WARD.

The Junior Society of Christian Endeavor of Colley Memorial Church held a most interesting meeting Sunday afternoon. The program was carried and was participated in by the entire membership present.

Rev. E. E. Dudley, pastor of Central Avenue Church, preached two very fine sermons to large congregations Sunday.

The most interesting rally of the Junior Epworth League of Leakes Memorial Methodist Church, since its organization three years ago, was held Sunday afternoon.

There is a growing interest in the Episcopal services held at the W. C. T. U. Hall Sunday nights. The congregations are continuously on the increase and the outlook is hopeful for building up a strong and healthy church.

It is said that a number of very important matters will be discussed at the next meeting of the Local Board of Improvement.

The oyster packers are getting ready to put their establishments in order for the season, which opens on the 1st of September.

HUNTERSVILLE.

Mr. R. T. Webster, who resides on Johnson avenue, is very much improved and expects to be out in a few days.

Rev. Dr. W. E. Hall, of New York, preached a fine sermon at the Huntersville M. E. Church Sunday night on "The Immutability of Christ" to a large congregation.

Friday evening at 8 o'clock at the Methodist Church, Dr. Wm. Edwards Hall will deliver his popular lecture on "How to Get Married and Stay So." The lecture is for the benefit of Epworth League. The subject will be replete with wit and humor, and should attract a large audience. Go if you wish to enjoy a good laugh.

Workmen are repairing several of the board-walks in the village.

Flag at Avoca Pleasure Club.

The flag of the Avoca Pleasure Club, at Ocean View, was at half mast from Wednesday until Sunday afternoon in honor to the memory of the late Captain P. O'Connor, who died Wednesday night.

Mr. O'Connor was one of the founders of this club, twelve years ago, and has always been prominent in its affairs.

The cleverest thing imaginable is an accomplished fact. This being true, a business success might be called a clever thing, or an accomplished fact. In May 1873, the G. O. Taylor Whiskies made their appearance. The public, from the first, seemed to believe in the representations made about their purity and medicinal value, and the sales, year after year, have shown a healthy growth. Today a large percentage of licensed traders carry "G. O. T." in stock, because it is a standard article, being regularly prescribed by physicians, used by invalids and kept in almost every store for use in emergencies. We bottle to-day the same quality of whiskey, under the trade mark name, "G. O. Taylor," that we have bottled for a century. Reject substitutes and don't overlook this point. We never sell G. O. Taylor in bulk at any price, anywhere, to anybody. Look for our firm name signature on face and neck labels. Refuse to buy substitutes, and write to us your experiences.

C. H. GRAVES & SONS.
For sale at White Bros., Norfolk, Va., Brown's Hotel, Portsmouth, Va.

BRIEF ITEMS OF INTEREST.

Miss Alice Jones and brother William, of Mecklenburg county, are visiting their friend, Miss Edna Jones, on Bank street.

Miss Victoria Miller, who has been spending a few weeks with Mrs. J. H. Ledoyen, of this city, has gone to Europe and will visit both in Germany and Switzerland.

Miss Frances Finch will leave this morning for Newport News, where she will be the guest of Miss Maud Dennie for several weeks.

Rev. Father Doherty, who attended the retreat at Georgetown College last week, returned home Saturday evening and officiated at all services at St. Mary's Church Sunday.

The Villa Heights Company held a special meeting yesterday and decided to wind up the affairs of the company by offering the entire property for sale at auction on August 2d.

Norfolk Royal Arch Chapter conferred the past and most excellent masters' degrees last night.

Mrs. John R. Willis and family are spending the summer at Wilkin's Hotel, near Cape Charles. A new sixty-room hotel has just been completed at Wilkin's Beach, which is a new, promising resort.

Mr. and Mrs. E. St. John, accompanied by Miss Pearson, returned from New York via the New York, Philadelphia and Norfolk railroad yesterday morning.

Mr. Glimmer Buskey, now with the New York, Philadelphia and Norfolk railroad, has accepted a position in New York with the Old Dominion Steamship Company.

Sheriff Lawler yesterday received a telegram announcing the death at the insane asylum at Petersburg of John Woodhouse, colored, sent from Norfolk.

Mr. H. B. Goodridge left Saturday for the Sweet Chalybeate Springs to spend a few days there.

General V. D. Groner and wife left last evening via the Chesapeake and Ohio for Cold Sulphur Springs, Va., for the summer.

Mrs. F. A. Bryan, of 208 Claiborne avenue, leaves with her family this morning for Haystack Springs, Va., on the Chesapeake and Ohio.

The body of the old colored man, Isaac Keeling, who lost his life by drowning in Mahone's Lake canal early Saturday morning, was recovered Sunday and carried to the city morgue. An inquest was held by Coroner Newton. The jury rendered a verdict of accidental drowning.

The British steamer Balnbridge, Captain Barnard, from Fernandina to Memel, with cargo, arrived here yesterday and coaled with George W. Taylor & Co.

Owing to new cables being put in by the Southern Bell Telephone Company, the Albemarle and Chesapeake Canal Company has been very much disturbed in getting reports at their office from the canal.

Captain Wolfert, of the schooner Watchful, has his wife and a party of friends with him on a pleasure trip on his schooner. He arrived yesterday.

Lieutenant R. O. Bittler, U. S. N., hydrographer in charge of this station, has received three weeks' leave of absence, dating from to-day. Mr. J. Ashby Williams, clerk to the lieutenant, will be in charge of the office in his absence.

Mrs. Joseph F. Bailey and children left yesterday to spend a month with her friend, Mrs. Pentress, at Ocean View.

Mr. and Mrs. L. M. Meekins, of Elizabeth City, N. C., are in the city.

United States District Attorney Edgar Allan arrived in the city yesterday afternoon.

Mr. W. T. Jordan, wife and son, of Charlotte, N. C., were here yesterday.

Mrs. Thomas Callahan, wife of Police-man Callahan, and her three children, left yesterday afternoon for Boston.

After spending a short time there they will leave for Canada, where Mrs. Callahan's father lives. They will return to Norfolk next summer.

Boys' Gospel Army.

The interest in the Boys' Gospel Army of the Young Men's Christian Association steadily increases. The semi-annual report of the work in this department of the association shows a remarkable attendance for a boys' religious meeting.

The attendance at the Sunday afternoon meetings has been as follows, by actual count: January, five sessions, 592 boys; February, four sessions, 333; March, four sessions, 663; April, five sessions, 1,073; May, four sessions, 863; and June, four sessions, 582, making a total of 4,106 boys in attendance upon twenty-six meetings, an average of 158 boys per meeting for the first six months of the present year.

The Norfolk Association can very well boast of its boys work, as the year book of the International Committee shows that the Norfolk Boys' Gospel Army had the largest attendance of any boys' department in the Young Men's Christian Association in the United States last year.

The work of the army will not be allowed to drag during the summer. The boys are so faithful that they will let nothing but sickness or absence from the city prevent their attendance on Sunday.

A trip to Lambert's Point last Monday was very much enjoyed by the fifty-eight boys who went, and a bicycle trip had been scheduled for yesterday, but was prevented by the severe storm, but will be given next week.

This afternoon the graduation exercises and initiation will occur and all boys in Company "C," who have reached the required age of 11 years, may join either Company "A" or "B," upon successfully passing the initiation.

Two boys were initiated two weeks ago and some of the boys are laughing yet, so to speak.

The treat that was to have been served yesterday will be disposed of this afternoon at 5 o'clock.

A social or trip will be given every two weeks during the summer.

Don't fail to try BEECHAM'S PILLS

when suffering from any bad condition of the Stomach

10 cents and 25 cents, at drug stores.

LADIES DO YOU KNOW DR. FELIX LE BRUN'S Steel & Pennyroyal Treatment

is the original and only FRENCH safe and reliable cure on the market. Price, \$1.00; sent by mail. Genuine sold only by

Walke, Martin & Gray, sole agents, corner Water street and Roanoke avenue, Norfolk, Va.

DEATHS AND FUNERALS.

MISS CARRIE M. GRANBERRY.

The obsequies of this most estimable young lady, whose untimely demise occurred at the home of her mother, Mrs. Eliza Granberry, corner of Duncan avenue and Duke streets, Saturday morning, after a brief illness, was held from Epworth M. E. Church at 5 o'clock yesterday afternoon, and was largely attended. Bishop John C. Granberry, of the M. E. Church, South, an uncle of the deceased, was also present, he having arrived here from Ashland yesterday for that purpose. The services were conducted by Rev. W. J. Young, assisted by Rev. H. E. Johnson, D. D., of Cumberland Street Church. Dr. Young spoke beautifully of the life and virtues of Miss Granberry. The remains were laid to rest in Elmwood Cemetery. Following were the pallbearers: Rev. S. S. Lambeth, Jr., Messrs. W. B. Clock, W. F. Lumley, George W. Roper, Chas. J. Day and L. Clay Kilby.

MRS. MARTHA A. WHITEHEAD.

The venerable Mrs. Martha A. Whitehead, relict of the late Mr. Severn Whitehead, departed this life at her home, No. 212 Fenchurch street, Sunday night, in the 72d year of her age. Her funeral will be held from the residence at 10:30 o'clock this morning, and will be conducted by Rev. H. E. Johnson, of Cumberland Street M. E. Church, of which the deceased was a member for many years.

LAMPERT'S POINT.

Mr. W. H. Backus is seriously ill at his home on Bowden's Ferry road, from a stroke of paralysis he received Thursday. His condition was thought to be slightly improved yesterday afternoon.

Mr. Brandt, who has been ill at his residence, on Myers avenue, is now under treatment at St. Vincent's Hospital.

Two brick residences are in course of construction for Mr. J. T. Hosler, on Ponchartraine avenue. With the completion of these Lamport's Point will have four brick dwellings.

McKendree Church Debt Paid.

Sunday was a notable day in the history of McKendree M. E. Church. By previous arrangement it was the day appointed to bring in the thank offerings to be used in paying off the church debt of \$3,125, which falls due to-day, July 18th, on a note in bank.

When the offering was counted it was found to amount to nearly \$2,800. This is a remarkable contribution when it is remembered that the congregation have been paying steadily on this account for the past eight years, since the church was built, and longer.

With Sunday's contribution the total amount raised for this purpose in these eight years has been \$25,000.

Sunday's offering was strictly a voluntary thank-offering to God. There were no amounts called out, and no one knew except the few who had canvassed the congregation what any one else gave. The plates were passed without any special appeal, with the above result.

This remarkable offering from a smaller congregation than usual, and on a hot day in mid-summer, is attributed by the congregation and the pastor solely to the influence of the spirit of God working upon the hearts of his people.

The remainder of the \$3,125 has since been given privately, and since Sunday there is a happy church and a happy pastor in Brambleton.

(Communicated.)

Missionary Association Meeting.
At the afternoon session of the North Carolina and Virginia Missionary Baptist Association, held at Fourth Baptist Church, Portsmouth, Va., Friday, 14th July, Rev. N. S. Martin, D. D., of Suffolk, Va., was elected moderator, and Rev. Geo. T. Toliver, A. B., of Washington, D. C., vice-moderator; Rev. Robert A. Lee, of Norfolk, clerk; Deacon Wm. Skinner, of Suffolk, Va., treasurer. Assistant Clerk, S. T. Riddick, Suffolk, Va.; Corresponding Clerk, Rev. J. H. Reid, Norfolk, Va.; Chairman of the Executive Board, Rev. J. W. Drew; Missionaries, Elders Frank Mason and Dr. T. S. Jackson. The next annual session of the association will be held with the Pleasant Union Baptist Church, Suffolk, Va., Tuesday after second Sunday in July, 1900. Resolutions were adopted to establish an Education and Industrial Institution, and to raise money to that end at once.

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